

<p align="center">Minutes of the Special Town Meeting November 10, 2014</p>

Moderator Enrico Cappucci opened the Special Town Meeting on Monday, November 10, 2014, at 7:15 pm at the Ayer Shirley Middle School Auditorium, 1 Hospital Road. Charles Church led the meeting in the Pledge of Allegiance. The Town Clerk had sworn the following people to serve as tellers: Mike Detillion, Thadee Landry, Joe Stanislaw and James Thibault. Board of Registrars member Jim Yocum and election worker Judy Stanislaw checked voters into the meeting. 85 voters had checked in by the end of the evening.

Joel Bergeron, a representative from LHS associates, the vendor that sells the vote tabulating machine to be considered under Article 3 was in the lobby demonstrating the machine for meeting attendees.

Carolyn Murray, Town Counsel from Kopelman and Paige was in attendance and seated at the table on the stage with the Selectmen.

ARTICLE 1 SUPPLEMENTAL APPROPRIATION OF FUNDS FOR FY2015

MOTION A: David Swain moved that the Town amend the FY 2015 Budget and vote, as previously appropriated under Article 2 of the June 2, 2014 Annual Town Meeting, as listed in the 2014 Fall Special Town Meeting Warrant, with \$34,798.00 to be transferred from

<u>Department</u>	<u>Line & Account</u>	<u>Amount</u>	<u>REDUCED Appropriation</u>
175	Planning Board Wages	\$14,328.90	(\$14,328.90)
145/146	Assistant Treasurer Wages	\$38,288.70	(\$16,329.00)
145/146	Treasurer Salary	\$61,136.64	(\$4,140.80)
	TOTAL		\$34,798.00

To the following:

<u>Department</u>	<u>Line & Account</u>	<u>Amount</u>	<u>INCREASED Appropriation</u>
176	ZBA Wages	\$4,660.42	\$9,645.26
141	Assessor Clerk Wages	\$5,437.15	\$1,575.00
135	Assistant Accountant Wages	\$40,931.59	\$2,600.00

145/146	Tax Title/ Foreclosure	\$10,000.00	\$5,000.00
422	Department of Public Works Wages	\$00.00	\$11,329.00
211	Police Chief Salary	\$86,443.20	\$4,649.44
	<i>TOTAL</i>		\$34,798.00

Motion seconded by Kendra Dumont

Amendment 1: Elizabeth Quinty moved to amend Article 1, line item 145/146 Tax Title/Foreclosure to raise the proposed increase from \$5,000 to \$9,602.00 making the FY2015 budget \$19,602.00. Amendment seconded.

A petition to add an article for the Library to increase their expense budget by \$4,902 had been received too late to be put on this warrant. Though this motion did not increase the library budget directly, Mrs. Quinty sought to get the increase into the town's budget in general and hoped to move it to the library line at another time.

Vote: Passed by majority (Yes 41, No 23)

It was pointed out that by increasing the Tax Title/Foreclosure amount, a reduction of an equivalent amount needed to be made to a line in the first section to provide funding.

Amendment 2: David Swain moved to amend Article 1, line item 145/146 Assistant Treasurer Wages by reducing it by \$4,602 to \$11,727.00. Amendment seconded.

Vote: Amendment failed

The Selectmen advised that without adjusting an item in the reductions portion, the budget was out of balance by \$4,602.

George Knittel of Parker Rd. moved to reconsider Amendment 2. Motion to reconsider seconded.

The moderator had Mr. Swain reread Amendment 2

Amendment 2 David Swain moved to amend Article 1, line item 145/146 Assistant Treasurer Wages by reducing it by \$4,602 to \$11,727.00. Amendment seconded.

Vote: Passed by majority (42 YES, 17 NO)

Bob Marchetti of Oakes Landing pointed out an arithmetic problem with the Amendment. If you are going to increase appropriations by about \$4,000, you have to increase the ***reductions*** to the Assistant Treasurer's wages to about \$20,000.

Another amendment was proposed.

Amendment 3: David Swain moved to amend line 145/146 Assistant Treasurer Wages line to make the reduction \$20,931. Amendment seconded

Vote: *Passed by majority*

Vote on Motion A as amended with the reductions and increases equaling out at \$39,400.

Vote: *Passed by majority (YES 35, NO 10)*

MOTION B: David Swain moved that the Town raise and appropriate the sum of \$25,000 to the Police Department Salary Wages Hourly (Union) for the purpose of a new Police Officer. Kendra Dumont seconded the motion.

Vote: *passed by majority*

MOTION C: David Swain moved that the Town raise and appropriate the sum of \$25,000 to the Department Of Public Works Wages Hourly (Union) for the purpose of hiring a new DPW laborer. Bob Prescott seconded the motion

Vote: *Passed by majority*

MOTION D: David Swain moved that the Town amend the FY 2015 Budget and vote, as previously appropriated under Article 2 of the June 2, 2014 Annual Town Meeting as listed in the 2014 Fall Special Town Meeting Warrant, by transferring \$20,000 to the Group Health Insurance line, such amounts to be funded as follows:

\$18,637.40 to be Raised and Appropriated (taxation)

\$1,362.60 transferred from a Special Revenue Fund titled "Insurance Receipts"

Motion seconded by Bob Prescott

Vote: *passed by majority*

ARTICLE 2 APPROPRIATE CAPITAL ITEM FOR FY2015

MOTION A: David Swain moved that the Town vote to transfer the sum of \$54,000 from Free Cash for the purpose of conducting and preparing a Master Plan. Bob Prescott seconded the motion.

Vote: *passed by majority*

MOTION B: David Swain moved that the Town vote to appropriate the sum of \$32,124.08 for the purpose of purchasing a Police Cruiser/SUV; such amounts transferred from the following:

- \$ 15,279.97 from Free Cash and
- \$ 16,844.11 from the "Sale of Real Estate" account.

Bob Prescott seconded the motion.

Vote: *passed by majority*

ARTICLE 3 APPROPRIATE FUNDING FOR VOTE TABULATOR MACHINES

David Swain moved that the Town vote to transfer from Free Cash the sum of \$6,995 for the purpose of purchasing a tabulating machine. Motion seconded.

Vote: *passed by majority*

ARTICLE 4 REPURPOSING CAPITAL ITEM IN fiscal YEAR 2014

David Swain moved that the Town vote to transfer the sum of \$10,000, as previously appropriated under Article 12E of the 2013 Annual Town Meeting originally for the purpose of police laptops, and now for the purchase of police cruiser radios. Bob Prescott seconded the motion.

Vote: passed by majority

ARTICLE 5 TRANSFER TO OPEB LIABILITY TRUST FUND

David Swain moved that the Town vote to transfer from Free Cash the sum of \$10,000 to the Other Post-Employment Benefits Trust Fund. Bob Prescott seconded the motion.

Vote: passed by majority

ARTICLE 6 AUTHORIZE PAYMENT OF PRIOR YEAR BILLS

David Swain moved that the Town transfer the sum of \$4,476.94 from Free Cash in order to pay bills of a prior Fiscal Year, as follows:

<u>Department</u>	<u>Vendor</u>	<u>Goods/Services</u>	<u>Amount</u>
Board of Selectmen	Lexis Nexis	MGL Law Books	\$ 164.43
IT	Guardian Information	Renewal	\$ 472.51
Public Buildings	King Luminaire	Parking Lot Lighting	\$3,840.00

Kendra Dumont seconded the motion.

Vote: passed by 9/10th in favor.

ARTICLE 7 TRANSFER TO THE GENERAL STABILIZATION FUND

David Swain I move that the Town transfer the sum of \$772,823.54 to General Stabilization Fund, as follows:

\$56,362.60 from Raise and Appropriate (Taxation)

\$716,460.94 from Free Cash

Bob Prescott seconded the motion.

Vote: Moderator declared passed by 2/3 in favor.

ARTICLE 8 TRANSFER TO THE CAPITAL STABILIZATION FUND

David Swain moved that the Town vote to transfer from Free Cash the sum of \$296,521.15 to the Capital Stabilization Fund. Kendra Dumont seconded the motion.

Vote: Moderator declared passed by 2/3 in favor.

ARTICLE 9 APPROVE SOLAR TAX AGREEMENTS

David Swain moved that the Town vote to authorize the Board of Selectmen and Board of Assessors to negotiate and enter into payment in lieu of tax agreement(s) pursuant to Massachusetts General Laws Chapter 59 Section 38H(b) with one or more renewable energy generation companies operating one or more solar systems for Parcel ID's 10 A 2, 28 A 2.12, and 97 B 14 & 97 B 15 and to ratify the negotiated payment in lieu of tax agreement for Parcel ID 42 A 1 off Walker Rd as on file with the Board of Assessors. Kendra Dumont seconded the motion

Vote: passed by majority

ARTICLE 10 LEASING OF LAND

David Swain moved that the Town will vote to transfer the care, custody, and control of all or a portion of (1) the land located on Leominster Road, consisting of 9.22 acres, more or less, shown on Shirley Assessors' Map as parcel 10-A-2, and known as the "Landfill Site", from the Board of Selectmen and/or Board of Health for landfill purposes to the Board of Selectmen for the purpose of leasing and to the Board of Health for landfill purposes, and (2) the land located on Groton Road, consisting of 8.8 acres, more or less, shown on Shirley Assessors' Map as parcel 97 B 14 & 97 B 15, from the tax custodian for tax title purposes to the Board of Selectmen for general municipal purposes and for the purpose of leasing; and to authorize the Board of Selectmen to lease the foregoing land, and the land located on Walker Road, consisting of 17.6 acres, more or less, shown on Shirley Assessors' Map as parcel 28 A 2.12, and known as the "Bartkus Site", to a solar energy electricity production company for the installation of a solar photovoltaic array on said land on such terms and conditions as the Board of Selectmen deems appropriate; and to authorize the Board of Selectmen to take any and all action and execute any and all documents in conjunction therewith. Kendra Dumont seconded the motion

Vote: Moderator declared 2/3 vote in favor

ARTICLE 11 APPROVE 43D PRIORITY SITE

David Swain moved that the Town accept the provisions of Chapter 43D of the Massachusetts General Laws as amended pursuant to Section 11 of chapter 205 of the acts of 2006, and to approve the filing of an application with the Interagency Permitting Board for the designation of the following described land at Lancaster Road as a Priority Development Site: 2-B-1, 2-B-1.1, 2-B-1.12, 2-B-1.13, 2-B-1.2, 2-B-1.21, 2-B-1.22, 2-B-1.23

Motion seconded by Kendra Dumont.

Hand Vote: Passed by majority

ARTICLE 12 AMEND ARTICLE 1 OF THE TOWN MEETING BYLAW

David Swain moved to amend Article I of the Town of Shirley General Bylaws, "Town Meeting", as set forth in the Warrant and further, to authorize the Town Clerk to assign appropriate numbering to the bylaw and its subsections. Motion seconded by Kendra Dumont

Article 12 as set forth in the Warrant was as follows:

To see if the Town will vote to amend Article I, "Town Meeting," of the Town Bylaws as set forth below, with text to be inserted shown by underlining and text to be deleted shown by strikethrough, or take any other action relative thereto.

ARTICLE I
TOWN MEETINGS

~~Section 1 The Annual Town Meeting shall be held on the first Tuesday following the second Monday of May of each year. [Amended Feb 19, 1974 STM]~~

~~Section 2 The polls shall be open at 11:45 o'clock in the morning and shall remain open until 8:00 o'clock in the evening unless otherwise ordered by the Board of Selectmen.~~

Section 1 The Annual Town Meeting shall commence no earlier than the last day in March and no later than the last day of May. The Selectmen shall fix the time and place for the meeting.

Section 2 The Annual Town Election shall fall on the first Tuesday in May, unless otherwise decided by December 15th by the Board of Selectmen.

~~Section 3 All business of the Annual Town Meeting, except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot, shall be considered at an adjournment of such meeting, to be held on the succeeding Monday of May at 7:15 P.M. [Amended Dec 12, 1973 STM; Feb 19, 1974 STM; June 14, 1982 ATM; and May 18, 1985 ATM]~~

Section 3 RESERVED

Section 4 Notice of every **annual** town meeting shall be given by posting attested copies of the warrant therefor in at least one public place in Shirley Center and at least one public place in Shirley Village not less than seven days before the day fixed for such meeting.

Section 5 The Annual Town Reports will be available to residents at the Annual Town Election and at the Annual Town Meeting, or they may be picked up at the Town Clerk's Office. [Amended May 14, 1983 ATM]

Section 6 Notice of every Special Town Meeting shall be given by posting attested copies of the warrant for said Special Town Meeting in at least one public place in Shirley Center and at least one public place in Shirley Village not less than fourteen days before the day fixed for such meeting. ~~and by publication in one or more local newspaper not less than fourteen days before the day fixed for such meeting. [Amended May 14, 1983 ATM]~~

Section 7 Except as otherwise required by law, compliance with the preceding sections shall not be a requisite of valid notice of any town meeting, and non-compliance with said sections shall not affect the validity of any meeting or any action taken there at.

Section 8 Attendance at town meeting shall be limited to registered voters of that town except that other persons may be admitted to a separate section reserved for non-voters as determined by the Moderator.

- Section 9 The Moderator shall preside, regulate the proceedings, decide all questions of order and make public declaration of all votes.
- Section 10 Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by a two-thirds vote of the meeting.
- Section 11 All motions other than parliamentary motions shall be presented in writing.
- Section 12 If a motion is susceptible to division, it shall be divided and the question shall be put separately upon each part thereof, ~~if five voters so request.~~ **upon approval of town meeting by majority vote.**
- Section 13 When a question is before the meeting, the following motions, to wit; to lay on the table; for the previous question; to postpone to a time certain; to commit, recommit, or refer; to amend; to postpone indefinitely; shall be received and shall have precedence in the foregoing order; and the first two shall be decided without debate.
- Section 14 On proposed amendments involving expenditures of money, the larger or largest amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on any smaller amount.
- Section 15 Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon. (For penalty see Section 3 of Article XII)
- Section 16 ~~All committees authorized by the voters must report within a year of their appointment by an article in the warrant, and the Selectmen shall include an article in their warrant to hear such report. All reports shall be in writing, and a copy of the same shall be filed with the Town Clerk for publication in the next annual report. If no report is made within one year of the appointment, the committee shall be discharged and all moneys unexpended and uncommitted shall be returned to the Treasury.~~
- Section 16 RESERVED**
- Section 17 No motion the effect of which be to dissolve the meeting shall be in order until every article in the warrant therefor has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.
- Section 18 On questions requiring a simple majority vote or a two-thirds vote, a raise-of-hands vote shall be sufficient; and should the Moderator determine the statutory vote requirements have been achieved, he/she may dispense with a count and simply declare the results of the vote. On questions requiring a different majority, such as a four-fifths, or nine-tenths vote, the Moderator shall verify said count by a raise of hand, provided, that if the vote is unanimous, a count need not be taken. If any vote declared by the Moderator is immediately questioned by seven or more voters, the Moderator shall verify said count by a raise of hand, a standing vote, or a ballot vote. [Amended September 29, 2008 STM]

Section 19 No person shall speak more than three times upon any question unless leave of the Moderator is first obtained.

Section 20 The reporting year for the Annual Town Report shall be the Fiscal Year of the Town, from July 1st of each calendar year through June 30th of the following calendar year. [Added May 23, 2001 ATM]

AMENDMENT 1: Jim Quinty moved to amend Section 2 to say “The Annual Town Election shall fall on the first Tuesday in June.” Motion seconded.

Hand Vote: Amendment failed

AMENDMENT 2: Holly Haase moved to remove in Section 2 the words “unless otherwise decided by December 15 by the Board of Selectmen.”

Counted Hand Vote: 39 In Favor, 9 Opposed; Amendment passed by majority

Hand Vote on Main Motion as Amended: Passed by majority vote in favor.

ARTICLE 13: AMEND ARTICLE XII "PENALTIES" OF THE TOWN BYLAWS

David Swain moved to amend Article XII of the Town of Shirley General Bylaws, Penalties, as set forth in the Warrant and further, to authorize the Town Clerk to assign appropriate numbering to the bylaw and its subsections. Motion seconded by Robert Prescott.

Article 13 as set forth in the Warrant was as follows:

To see if the Town will vote to amend Article XII, “Penalties,” of the Town Bylaws as set forth below, with text to be inserted shown by underlining and text to be deleted shown by strikethrough, or take any other action relative thereto.

ARTICLE XII PENALTIES

The Town of Shirley has developed and revised the Penalties By-Laws. This by-law brings penalties for varied offenses more in line with existing Massachusetts General Laws and serves as an enforcement tool to access appropriate fines for specific violations.

Applicability:

The provisions of this by-law shall apply to Shirley’s finable offenses as identified in the corresponding by-laws.

Section 1 Violations of Section 1, ~~1a~~, and 3 of Article VI of the Town Bylaws (Health and Sanitation) shall be punished by a ~~fine of not exceeding \$5.00~~ **fine of \$300.00, for each offense, with each day a violation exists considered a separate violation. In addition, any person violating this bylaw shall be required to remove all illegally dumped materials at his own expense, or, after failure to comply with an order to remove said materials, shall reimburse the Town for its actual costs incurred in connection with removal of such materials.**

Section 4 of Article VI and of Sections 4, 5, and 7 of Article VII shall be punished by a fine of \$25.00 per offense.

Section 2 Violations of Section 7 of Article VI, **(Health and Sanitation)** of Section 2 of Article VII, **(Police Regulations)** and of Section 2 of Article IX **(Hawkers and Peddlers)** shall be punished by a fine of ~~not exceeding \$10.00~~ **of \$50.00 for each offense.**

Section 3 Violations of Section 15 of Article I, **(Town Meeting)** Section 5 of Article VI, **(Health and Sanitation)** Sections 3 and 6 of Article VII **(Police Regulations)** and of Section 2 of Article VIII shall be punished by a fine of ~~not exceeding \$20.00~~ **\$50.00**

Section 4 Deleted May 21, 1991

Section 5 Violations of Section 2 ~~and 6 and 8~~ of Article VI, **(Health and Sanitation)** and of Section 8 of Article VII **(Police Regulations)** shall be punished by a fine of ~~not exceeding \$25.00~~ **\$50.00** for each offense.

Section 6 Violation of Section 1 and 2 of Article X **(Driveways)** shall be punished by a fine of ~~not exceeding~~ \$100.00 for each offense.

Section 7 Violation of Section 1 of Article XI **(Soil Removal)** shall be punished by a fine of \$50.00 for the first offense, \$100.00 for the second offense, and \$200.00 for each subsequent offense.

Section 8 Each day that a violation of the sections set forth herein continues shall constitute a separate and distinct offense.

Hand Vote: Passed by majority vote in favor

Article 14 CY PRES PETITION

David Swain moved that the Town vote to authorize the Board of Selectmen to file a cy pres petition or petitions with the appropriate court, to allow the Town to repurpose the use of selected Trust Funds where the purposes of such Trust Funds are no longer needed or achievable as follows:

	<u>Principal</u>	<u>Interest</u>	<u>Unrealized Gain</u>	<u>Total</u>
Parker School Fund	\$4,000	\$1,558.55	\$412.87	\$5,971.42
Longley Union/High School Fund	\$4,000	\$62,916.30	\$4,970.27	\$71,886.57
Longley Intermediate/Primary Fund	\$2,000	\$2,936.02	\$ 366.63	\$5,302.65

Motion seconded by Kendra Dumont.

Hand Vote: Passed by majority vote in favor

Motion made and seconded to adjourn the town meeting to November 17 at Meeting Rooms A&B of the Shirley Town Offices at 7 Keady Way.

Amendment 1: Elizabeth Quinty moved to amend the motion for continuing the motion

from November 17th to December 8. Motion seconded.

Hand Counted Vote: Failed 20 YES 28 NO

Moderator declared majority vote in favor of the original motion and the first night of the special town meeting was closed at 9:45 pm.

* * *

Moderator Enrico Cappucci called the adjourned session of the town meeting to order at 6:30pm on November 17, 2014 in Meeting Rooms A&B of the Shirley Town Offices at 7 Keady Way, Shirley, MA. Registrar of voters Jim Yocum checked voters in. 23 voters checked in.

Article 15 ACCEPT DERBY DRIVE

David Swain moved that the Town accept as a public Town way a certain road shown as Derby Drive on subdivision Plan entitled, "As Built Plan of Derby Drive in Shirley, Massachusetts prepared for Derby Drive" prepared by Hayes Engineering, dated October 16, 2014 and recorded with the appropriate Registry of Deeds approved by the Planning Board, a copy of which is on file in the office of the Town Clerk, and further, that the Town authorize the Board of Selectmen to acquire by gift, purchase or otherwise, such easements in said Derby Drive as may be needed for all purposes for which public ways are used in the Town of Shirley, and any and all drainage, utility, access, and/or other easements related thereto.

Motion seconded by Kendra Dumont.

Board of Selectmen chair David Swain advised that the Planning Board and Board of Selectmen were both in favor of the article. Finance Committee Stewart Cady advised that the Finance Committee would defer to the other boards, as they did not have a quorum that night in order to vote on a recommendation.

Counted Hand Vote: 23 In Favor, Zero Opposed; Passed by more than 2/3 majority.

David Swain moved dissolve the meeting. Stewart Cady seconded. Hand vote: Moderator declared that the motion passed. The meeting was dissolved at 6:35 pm.

Respectfully submitted,

Amy R. McDougall
Shirley Town Clerk